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Corruption, Transparency and Quality. Comparative Approaches and Judiciary Support

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Introduction

Our approach starts from the necessity to enlarge and diversify the instruments and methods for corruption analysis. The specialized literature and the reports of various organizations with preoccupations in the fight against corruption reveal the systemic feature of the corruption activities. Herewith, we refer to an open system, with profound social, economic and political connections. The dynamics of the system under discussion has got specific determinations and developments for each country, embracing sophisticated forms that, sometimes reach to have the dimension of a governmental policy.

The social reality has identified a series of methods for the fight against corruption, transposed in good practices, whose application depends essentially of the public integrity systems from each country.

“While there is no blueprint for an effective system to prevent corruption and for the fight against corruption, there is a growing international consensus as to salient features of anticorruption systems that work with best results. “¹

I. Social and political determinations

The studies on social perception concerning corruption have extended in the latest years, getting more professionalism and broader scope.

The areas and institutions most affected by corruption remain the political parties (4.0), parliaments (3.7), police (3.6), and judiciary (3.5).²

The overwhelming majority (45) from the 69 countries surveyed, confirmed this reality. The points inscribed near each area are on a scale from 1 to 5.5, meaning that for the respective areas the qualificative “extremely corrupt” is significant.

Referring to the Global Corruption Barometer (GCB)³, initiated in 2002 by Transparency International, it reflects the fact that “the country to which belongs the respondent is more relevant for the answers given concerning the corruption level”⁴.

¹ “National Integrity System. Romania 2005”, (Country Study), www.transparency.org.ro, p. 2.

² Transparency International, “Global Corruption Barometer 2005”, p.6.

From this perspective, our study will focus on the situation in Romania, trying to state adequate judgments, based on the consideration that a series of conclusions are relevant also for another country.

In Romania, the perception is that the most corrupt sectors are those of political parties and customs system, followed by judiciary, legislature, police and medical system (Annex 1).

The eventual progress in the anticorruption activities is not yet reflected in the public opinion.

For Romania, the conclusions concerning the perspectives of the next three years are as follows:⁵

- ✓ 37% of the population believes that corruption has increased and only 19% that it has decreased, and 34% have perceived no difference;
- ✓ At least one third from the respondents expresses the opinion that the situation will improve. However, 36% remain that do not believe that the corruption level will change during the next three years;
- ✓ It is maintained the perception that prevails the bribery and at least 11% of the respondents answered that they had to offer bribe during the last year. The estimated level of the bribe for the members of a family in the last 12 months is of 56 USD, equivalent to 154 USD related to the purchasing power of 2003.⁶

1.1. The National Integrity Systems

In Transparency International (TI) conception, the National Integrity Systems (NIS) comprise “key institutions, laws and practices (the ‘pillars’) that contribute to integrity, transparency and accountability in a society. “⁷

The perspectives of the analysis and modeling the corruption phenomena, aimed by our paper, are supported by the country studies that provide both an overview on NIS, the indicators for measuring the subsequent progresses from those countries, as well as a basis of comparisons among states.

The above mentioned country study asserts: “when it functions correctly, NIS fights against corruption as part of a broader fight against the abuse of power, breaking the law and fraud under all its forms”.

³ www.transparency.org/policy_research/surveys_indices

⁴ Transparency International, “Report on the Transparency International Global Corruption Barometer 2005”, p.2, www.transparency.org/policy_research/surveys_indices/gcb

⁵ Idem, p.4.

⁶ Indicators of Online Development of the World Bank, <http://publications.worldbank.org/WDI/>.

⁷ “National Integrity System. Country Study. Romania 2005, Transparency International Romania, p 1.

1.2. Stages in developing the National Integrity System in Romania

1990 – 1998

- The period coincides with the first half of the transition period;
- The main exponents of the national public integrity were the Parliament and Government, that did not elaborate a public policy to promote the public integrity;
- The Judiciary had no capacity to adjust the deficiencies of the other 2 powers in the state;
- The social perception on the public pillars reveals a high degree of corruption, just in the interior of most of the public integrity pillars;
- The civil society was not concerned with corruption, focusing on ensuring the basic requirements of democracy, rule of law and respect for human rights;
- The international institutions were concerned about the economic and democratic reforms.

1999 – 2004

- The second stage coincides with the beginning of the negotiations of accession into the European Union;
- The international agencies have expressed their interest towards the Romanian public integrity system (programmes were initiated and political pressures were exerted for reforms);
- The main pillars of integrity – the Executive and Legislative – have realised the seriousness of the national corruption level;
- In 2001, the Government elaborated a National Anticorruption Strategy and the National Anticorruption Prosecutor's Office was set up;
- Other NIS pillars were strengthened, such as Ombudsman or Court of Accounts.
- The progresses have determined Romania to become NATO member and closing the negotiations for accession into the European Union;
- The other pillars: Parliament, justice, police have not recorded progresses;
- The civil society was focused on the fight against corruption, adding on the public agenda law drafts, essential for public integrity;
- The public policies designed to ensure the cooperation between pillars were inconsistent, proving a low capacity of implementation and reduced political will.

2005 – present

- The third period coincides with signing the Treaty of Romania Accession into the European Union;
- The main political criteria were fulfilled;
- Romania should implement effectively EU standards in the area of justice concerning corruption level, competition and control in customs.

1.3. Corruption profile

Referring to Romania, the country study in 2005 reconfirms a profile, somehow improved related to the previous years, but it remains the perception of “endemic and systemic corruption at almost all institutional levels”.⁸

According to TI evaluations, Romania recorded in 1997 a corruption index of 3.47, in the following years registered a negative trend, reaching in 2002 the lowest score of 2.6; afterwards it started to increase, reaching in 2005 the score of 3.

Annex 2 presents the developments of the TI and GRICS (Governance Research Indicator Country Snapshot)⁹ indices.

Figure 1 presents a more suggestive image about the development of TI corruption perceptions index during 1997 – 2005.

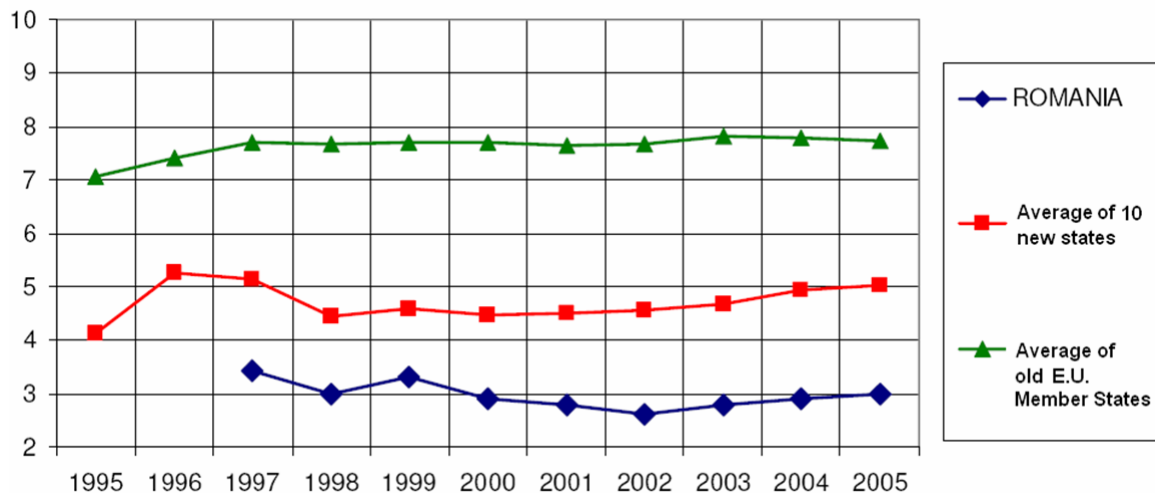


Figure 1
The development of corruption perceptions index during 1997 – 2005.

Source: www.transparency.org/policy_research/surveys_indices/gcb

At the same time, also other sources indicate the fact that the corruption phenomena persist and amplify a lot over the average of other European countries.

Further the negotiations of accession into the European Union, the Government of Romania required in 2000 from the World Bank a diagnostic of corruption. The study identified the sectors perceived to be the most corrupt: customs, courts and prosecutor offices, privitising institutions, ministries etc.

⁸ Idem, p.5.

⁹ http://info.worldbank.org/governance/khz_2004/indicator_report.asp

In 2002, a survey achieved by Gallup shows the fact that the Romanians perceive corruption as the most important problem and a social illegitimate act.

The perspective of Romania integration into the European Union has determined major reforms in the judiciary aimed to make secure its independence. In 2005, the Government of Romania adopted a new strategy, a new anticorruption plan, with the declared aim to fight against great corruption.

In the context of the Central and Eastern European countries, the comparative situation regarding the corruption perceptions index is presented in Figure 2.

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
ROMANIA	-	-	3.44	3.00	3.30	2.90	2.80	2.60	2.80	2.90	3.00
Bulgaria	-	-	-	2.90	3.30	3.50	3.90	4.00	3.90	4.10	4.00
Turkey	4.10	3.54	3.21	3.40	3.60	3.80	3.60	3.20	3.10	3.20	3.50
Poland	-	5.57	5.08	4.60	4.20	4.20	4.10	4.00	3.60	3.50	3.40
Czech Republic	-	5.37	5.20	4.80	4.60	4.30	3.90	3.70	3.90	4.20	4.30
Slovak Republic	-	-	-	3.90	3.70	3.50	3.70	3.70	3.70	4.00	4.30
Hungary	4.12	4.86	5.18	5.00	5.20	5.20	5.30	4.90	4.80	4.80	5.00
Slovenia	-	-	-	-	6.00	5.50	5.20	6.00	5.90	6.00	6.10
Cyprus	-	-	-	-	-	-	-	-	6.10	5.40	5.70
Greece	4.04	5.01	5.35	4.90	4.90	4.90	4.20	4.20	4.30	4.30	4.30

Figure 2: Comparative evolution of the corruption perceptions index between 1995 – 2005 for countries of the Central and Eastern Europe
(Source: <http://www.transparency.org.ro/>)

From the view point of Romania's accession to the European Union, a significant comparison is presented in Figure 3 – a clear reference to the average of old E.U. members, that of the new members and of course, of Romania.

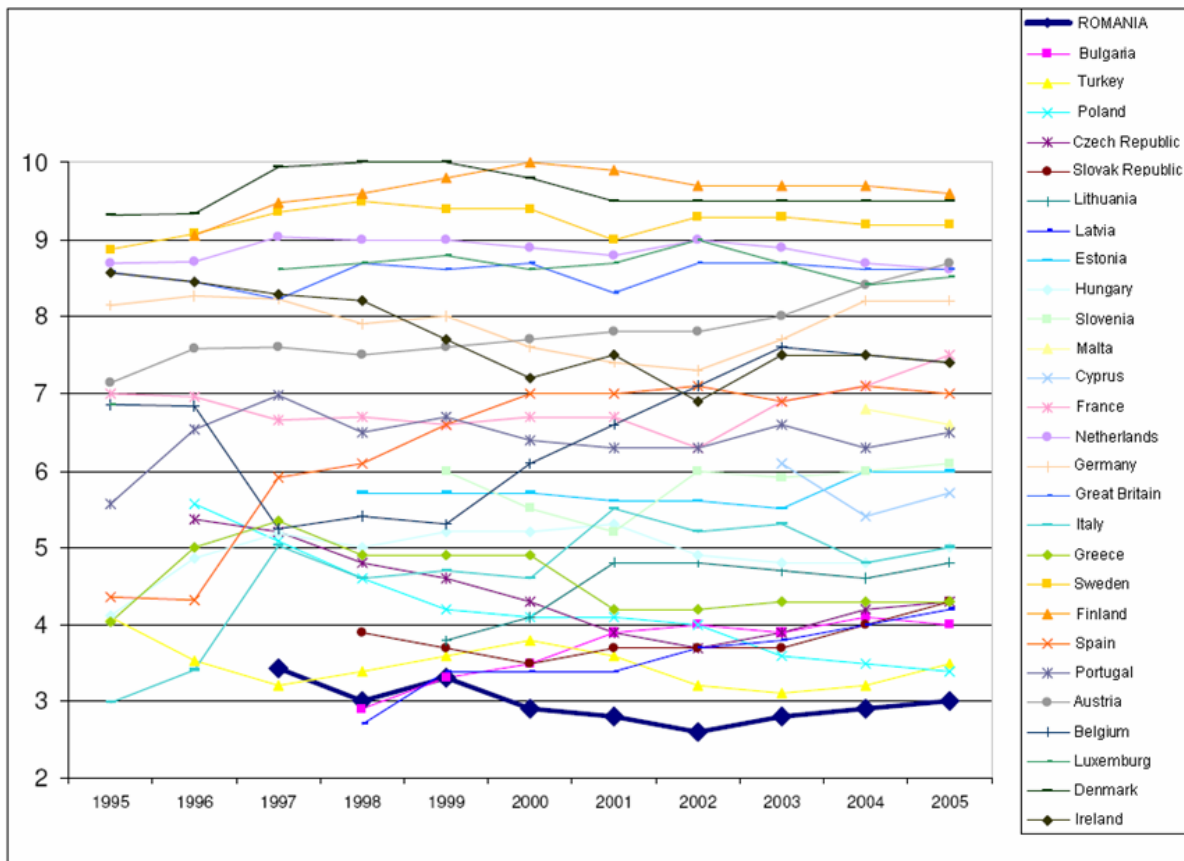


Figure 3: Comparative situation Romania – European Union of Corruption Perceptions Index

(Source: <http://www.transparency.org.ro/>)

II. THE POLITICAL STABILITY AND CORRUPTION

Recent studies have put into discussion and modeled the relation between the political stability / instability and corruption. The most relevant and usually employed paper is the one that belongs to Campante, F., Chor, D., Do, Q.A. (2005). Using relevant and recent information from different countries, the mentioned authors manage to show the existence of a non-monotonous relation between the political stability/instability and corruption.

The most comprehensive definition for political stability sees the concept in question as “a probability that all in power are capable to implement their projects on time”¹⁰.

The proposed model emphasizes two effects:

- *the time horizon effect*, which stipulates that, during their mandate, greater instability generates higher corruption among the holders of power;

¹⁰ Campante, R. F., Chor, D., Do, Quoc-Anh, 2005, *Instability and the Incentives for Corruption*, Harvard University, p.2.

- *the demand effect*, through which the private sector is more eager to bribe the politicians who are politically more stable.

The first effect is predominant for low values of stability, while the second prevails in the most stable political regimes. The conclusion of the theoretical and practical investigation already employed by the mentioned authors, states: corruption is higher at low and high levels of stability, and lower, at intermediary levels. The above study uses the aggregated corruption perception index presented by Kaufmann, Kraay and Mastruzzi (2004).

The study of the numeric values and their interpretations lead to the idea that there is a variation of corruption in form of a U. For the countries of the Central and Eastern Europe, and especially for Romania, the time frame included between 1990 and 2005 has emphasized other elements to be taken into account when discussing about the political stability/instability.

II. 1. A model adapted to Central and Eastern European Countries

In a Romanian perspective, the leading characteristics consist of:

- The persistence of a political instability as an effect of the fluidity of the political life and lack of maturity of the political options;
- The existence of electoral cycles for both central and local administrations;
- The alternation in governing of power holders and opposition, usually structured from different coalitions, factions or parties.

These characteristics may be found for all the Central and Eastern European Countries.

In this context, the present paper proposes a simplified model of the evaluation of stability/instability, by means of a stability index (**IS**), calculated for each electoral cycle.

The elements aggregated in this index are:

- The probability for the same government to hold the power within an electoral cycle. In fact, this probability will be calculated indirectly, with the help of a random variable (**AS**);
- The forces ratio between power holders and opposition (**RF**), expressed by a sub-unitary coefficient that stands for the number of parliamentary mandates of the opposition / the number of parliamentary mandates of the power;
- The structure of the power, expressed by the number of political entities which participate to governance (**SP**).

II.2. Aggregated statistical modeling

In the attempt to modeling the statements already made for the Romanian case, three electoral cycles are to be taken into consideration: (1): 1992 – 1996; (2): 1997 – 2000; (3): 2001 – 2004. The probability to hold the power in these three periods will be found in a random variable shaped as follows:

$$AS_i : \begin{pmatrix} 1 & 2 & \dots & n \\ p_1 & p_2 & \dots & p_n \end{pmatrix}; n = \text{number of major changes of government} \quad (1)$$

$$p_1 < p_2 < \dots < p_n$$

and the stability index will be given by the expression:

$$IS_i = \frac{2}{n(n+1)} \cdot \frac{RF_i}{SP_i} M(AS_i) \quad (2)$$

where $M(AS)$ is the average of random variable AS .

II.3 Model for Romania

In Romania's case¹¹ we will have:

$$AS_1 = \begin{pmatrix} 1 \\ 1 \end{pmatrix}; \quad AS_2 = \begin{pmatrix} 1 & 2 & 3 \\ \frac{1}{8} & \frac{2}{8} & \frac{5}{8} \end{pmatrix} \quad (3)$$

$$AS_3 = \begin{pmatrix} 1 & 2 \\ \frac{1}{4} & \frac{3}{4} \end{pmatrix}$$

$$RF_1 = \frac{221}{250} = 0.88, \quad RF_2 = \frac{184}{287} = 0.64, \quad RF_3 = \frac{211}{259} = 0.81 \quad \text{and} \quad (4)$$

$$SP_1 = 3, \quad SP_2 = 3, \quad SP_3 = 1 \quad (5)$$

Thus we obtain,

$$IS_1 = 0.29; \quad IS_2 = 0.08; \quad IS_3 = 0.47 \quad (6)$$

Consequently, we might formulate the following conclusions:

- High instability: 1997 - 2000
- High stability: 2001 - 2004

¹¹ National Institute of Statistics, Permanent Electoral Authority, Jan. 2005, "Electoral statistics. Parliamentary and presidential elections", Bucharest, pp 24-48.

- Intermediary stability 1992 - 1996

By correlating the above findings with the data presented in Annex 2, if to consider a medium corruption index, for each electoral cycle, we will have relevant images as shown in Figure 4 and Figure 5.

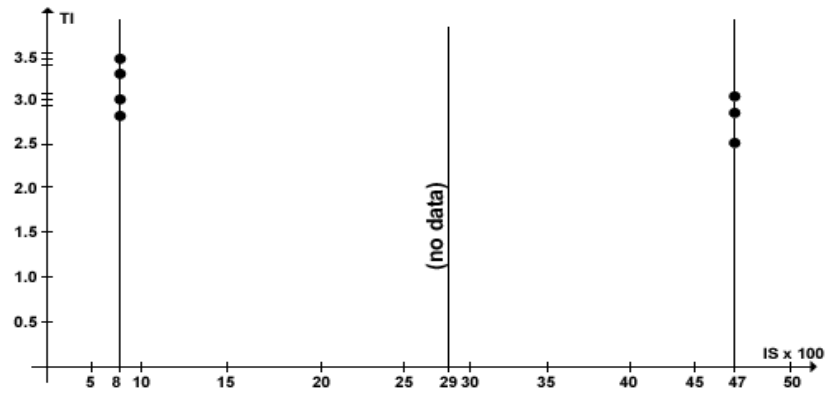


Figure 4: The relation between the political stability and corruption (using TI index)

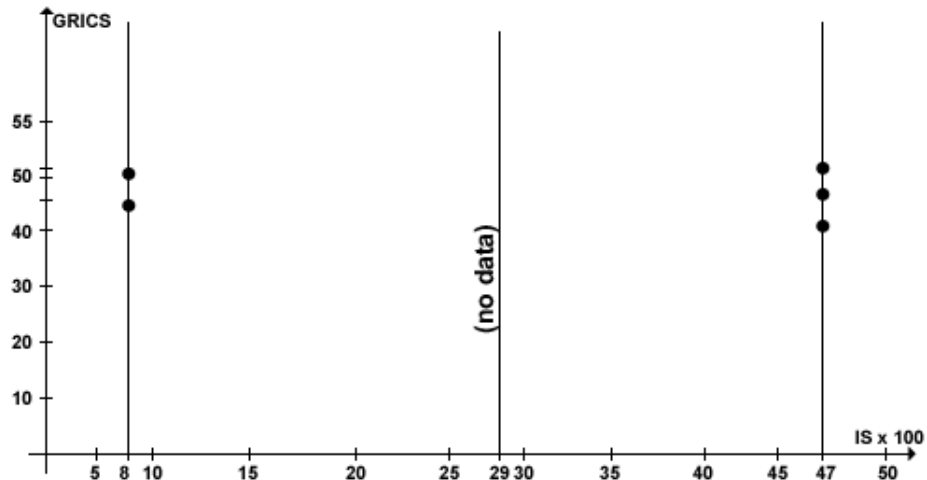


Figure 5: The relation between the political stability and corruption (using GRICS index)

II.4 Conclusions

Thus, the correlation of the two indicators of stability and corruption emphasises:

- a non-linear relation between political stability/instability and corruption;
- lack of the data before 1996 leads us to the impossibility to confirm empirically the form of **U** of the dependency: political stability/instability and corruption;
- To the proposed stability indicator we can aggregate other elements, such as those with perturbation feature: social, economic crises etc

It was impossible to draw a more pertinent and closer to the reality image due to the lack of some empirical statistical data. In our opinion, this new approach to the relation between political stability and corruption confirms the results mentioned at the beginning of this section. Using it a starting point the statistical experimental studies may offer also a possible prognosis to the corruption level. A more detailed discussion and analysis can be accomplished if we will concentrate upon a certain type of corruption.

III. JUDICIARY SUPPORT OF PUBLIC INTEGRITY

III. 1. Impact

The judiciary impact on public integrity was reduced, mainly due to:

- Low impact of the prevention role of the criminal system;
- Lack of control of the integrity of the members of Parliament, members of executive and administration.

We can add:

- Lack of genuine independence;
- Lack of an adequate infrastructure.

The reforms initiated in 2004 and continued in present prove:

- The potential to solve justice problems;
- Effective implementation requires longer periods of time.

III. 2 Legislative developments

- An analysis of the legislation elaborated and approved with direct or indirect effect on the prevention and fight against corruption emphasises the occurrence of more than 14 significant normative deeds.

- Amending the Criminal Code and the Code of Criminal Procedure (September 2005).
- Adopting the National Strategy on Corruption for 2005 – 2007 (GD 231/2005).
- Law no. 244/2005, abolishing the practice of rescheduling or exempt of the payment of debts to the state budget.
- Law no. 241/2005, introducing criminal sanctions for tax dodging.
- Law no. 247/2005 concerning the increase of the prosecutors' independence, reducing the assignments of the heads of courts, prosecutor's offices etc.
- Law no. 90/2005 concerning the modification and completion of Law no. 115/1999 concerning ministerial accountability.
- Emergency Ordinance no. 14/2005 concerning the declarations of wealth.
- Law no. 230/2005, strengthening the operational capacity of the National Office for Prevention and Fight against Money laundry.
- Law no. 237/2005 concerning public procurement.
- Law no. 383/2005 concerning the organisation and functioning of the General Anticorruption Division within the Ministry of Administration and Interior.
- Law no. 54/2006 for adopting GEO 134/2005 concerning the establishment of the National Anticorruption Department.

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Annex 1

Romania: Areas/sectors perceived to be corrupt

Area Country		Political parties	Legislature	Police	Judiciary	Tax Revenue	Business Environment	Customs	Medical system	Media	Educational system	Utilities	Registry / Permit services	Military	NGOs	Religious bodies
Romania	2004	4.2	4.0	3.8	4.1	2.9	3.7	4.2	3.9	2.5	3.3	2.5	3.4	2.4	2.7	2.2
	2005	3.8	3.6	3.6	3.7	2.4	3.4	3.8	3.6	2.7	2.9	2.5	2.9	2.4	2.5	2.1
Central& Eastern Europe	max	4.5	4.2	4.2	4.3	3.8	3.8	4.5	4.1	3.7	3.8	3.1	3.6	3.5	3.4	2.7
	min	3.1	2.5	1.9	3.0	2.4	3.0	2.7	2.9	2.2	2.4	2.2	2.4	1.2	2.2	1.6
	average	4.0	3.9	4.0	3.9	3.5	3.7	3.7	3.7	3.2	3.5	2.9	3.4	3.1	2.7	2.3
Western Europe	max	4.2	3.6	3.3	3.3	3.7	3.5	3.3	3.6	3.7	2.7	3.3	3.5	2.9	2.7	3.2
	min	2.7	2.5	1.7	2.0	1.8	2.8	1.8	1.9	2.8	1.5	1.9	1.6	1.7	2.0	1.7
	average	3.7	3.3	2.7	2.9	2.9	3.3	2.7	2.7	3.3	2.3	2.6	2.5	2.5	2.5	2.5

Source: Transparency International Global Corruption Barometer 2004, 2005

Annex 2

Romania: Development of Corruption indicators

Year Indicator	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
IT*	-	3.44	3.00	3.30	2.90	2.80	2.60	2.80	2.90	3.00
GRICS**	51.3	-	44.3	-	39.8	-	45.4	-	49.3	-

Source: * www.transparency.org.ro

** http://info.worldbank.org/governance/khz/2004/indicator_report.asp